

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

FILED

JAN 15 2019

EMANUEL D. MITCHELL

CARMELITA REEDER SHINN, CLERK
U.S. DIST. COURT, WESTERN DIST. OKLA.
BY KMT DEPUTY

(Enter the full name of the plaintiff.)

CIV-19-40-G

v.

Case No. _____
(Court Clerk will insert case number)

- (1) GEO GROUP, INC., et al.
- (2) JEANIE LOPK
- (3) Buddy HONAKER

(Enter the full name of each defendant. Attach additional sheets as necessary.)

PRO SE PRISONER CIVIL RIGHTS COMPLAINT

Initial Instructions

1. You must type or legibly handwrite the Complaint, and you must answer all questions concisely and in the proper space. Where more space is needed to answer any question, you may attach a separate sheet.
2. You must provide a full name for each defendant and describe where that defendant resides or can be located.
3. You must send the original complaint and one copy to the Clerk of the District Court.
4. You must pay an initial fee of \$400 (including a \$350 filing fee and a \$50 administrative fee). The complaint will not be considered filed until the Clerk receives the \$400 fee or you are granted permission to proceed *in forma pauperis*.
5. If you cannot prepay the \$400 fee, you may request permission to proceed *in forma pauperis* in accordance with the procedures set forth in the Court's form application to proceed *in forma pauperis*. See 28 U.S.C. § 1915; Local Civil Rule 3.3.

- If the court grants your request, the \$50 administrative fee will not be assessed and your total filing fee will be \$350.
- You will be required to make an initial partial payment, which the court will calculate, and then prison officials will deduct the remaining balance from your prison accounts over time.
- These deductions will be made until the entire \$350 filing fee is paid, **regardless of how the court decides your case.**

7. The Court will review your complaint before deciding whether to authorize service of process on the defendants. *See* 28 U.S.C. §§ 1915(e)(2), 1915A; 42 U.S.C. § 1997e(c)(1). If the Court grants such permission, the Clerk will send you the necessary instructions and forms.

8. If you have been granted permission to proceed *in forma pauperis*, the United States Marshals Service will be authorized to serve the defendants based on information you provide. If you have not been granted permission to proceed *in forma pauperis*, you will be responsible for service of a separate summons and copy of the complaint on each defendant in accordance with Rule 4 of the Federal Rules of Civil Procedure.

COMPLAINT

I. Jurisdiction is asserted pursuant to:

☒ 42 U.S.C. § 1983 and 28 U.S.C. § 1343(a)(3) (NOTE: these provisions generally apply to state prisoners), or

☐ *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971), and 28 U.S.C. § 1331 (NOTE: these provisions generally apply to federal prisoners)

If you want to assert jurisdiction under different or additional statutes, list these below:

PRISON Litigation Reform Act of (1995); 42 U.S.C.,
§§ 1997A - 1997C, 1997E - 1997F, 1997H (2000); And the
INSTITUTIONALIZED PERSONS Act of (1977)

II. State whether you are a:

- ☒ Convicted and sentenced state prisoner
☐ Convicted and sentenced federal prisoner
☐ Pretrial detainee
☐ Immigration detainee
☐ Civilly committed detainee
☐ Other (please explain) _____

III. Previous Federal Civil Actions or Appeals

List each civil action or appeal you have brought in a federal court while you were incarcerated or detained in any facility.

1. Prior Civil Action/Appeal No. 1

a. Parties to previous lawsuit:

Plaintiff(s): _____

Defendant(s): _____

b. Court and docket number: _____

c. Approximate date of filing: _____

d. Issues raised: _____

e. Disposition (for example: Did you win? Was the case dismissed? Was summary judgment entered against you? Is the case still pending? Did you appeal?): _____

f. Approximate date of disposition: _____

If there is more than one civil action or appeal, describe the additional civil actions or appeals using this same format on a separate sheet(s).

IV. Parties to Current Lawsuit

State information about yourself and each person or company listed as a defendant in the caption (the heading) of this complaint.

1. Plaintiff

Name and any aliases: EMANUEL D. MITCHELL

Address: 8607 SE Flower Mound Rd

Inmate No.: 237211

2. Defendant No. 1

Name and official position: GEO GROUP, INC., Phelicia Mooreland, Dir., Contract Compliance

Place of employment and/or residence: ONE PERK PLACE #700
621 Northpark St 53rd St., Boca Raton, Florida 33487

How is this person sued? ☒ official capacity, () individual capacity, () both

3. Defendant No. 2

Name and official position: JENNIE LOPER, Official
Position - Not Clear

Place of employment and/or residence: LC# - 8607 SE
Flower Mound Rd., Lawton, OK. 73501

How is this person sued? () official capacity, () individual capacity, ☒ both

If there are more than two defendants, describe the additional defendants using this same format on a separate sheet(s).

V. Cause of Action

Instructions

1. *Provide a short and plain statement of each claim.*
 - Describe the facts that are the basis for your claim.
 - You can generally only sue defendants who were directly involved in harming you. Describe how each defendant violated your rights, giving dates and places.
 - Explain how you were hurt and the extent of your injuries.
2. *You are not required to cite case law.*
 - Describe the constitutional or statutory rights you believe the defendant(s) violated.
 - At this stage in the proceedings, you do not need to cite or discuss any case law.
3. *You are not required to attach exhibits.*
 - If you do attach exhibits, you should refer to the exhibits in the statement of your claim and explain why you included them.
4. *Be aware of the requirement that you exhaust prison grievance procedures **before** filing your lawsuit.*
 - If the evidence shows that you did not fully comply with an available prison grievance process prior to filing this lawsuit, the court may dismiss the unexhausted claim(s) or grant judgment against you. See 42 U.S.C. § 1997e(a).
 - Every claim you raise must be exhausted in the appropriate manner.
5. *Be aware of any statute of limitations.*
 - If you are suing about events that happened in the past, your case may be subject to dismissal under the statute of limitations. For example, for many civil rights claims, an action must be brought within two years from the date when the plaintiff knew or had reason to know of the injury that is the basis for the claim.

6. Do not include claims relating to your criminal conviction or to prison disciplinary proceedings that resulted in loss of good time credits.

- If a ruling in your favor "would necessarily imply the invalidity" of a criminal conviction or prison disciplinary punishment affecting the time served, then you cannot make these claims in a civil rights complaint unless you have already had the conviction or prison disciplinary proceeding invalidated, for example through a habeas proceeding.

Claims

List the federal right(s) that you believe have been violated, and describe what happened. Each alleged violation of a federal right should be listed separately as its own claim.

1. Claim 1:

(1) List the right that you believe was violated:

MEDICAL NEGLIGENCE, MEDICAL INDIFFERENCE;
CRUEL AND UNUSUAL PUNISHMENT; DISCRIMINATED
AGAINST FOR EXERCISING RIGHT TO COMPLAIN ABOUT
TREATMENT. VIOLATION OF 14TH AMENDMENT

(2) List the defendant(s) to this claim: (If you have sued more than one defendant, specify each person or entity that is a defendant for this particular claim.)

JEANIE LOPER

(3) List the supporting facts:

The supporting facts are well documented
from hip replacement to Progressive Muscular
Dystrophy throughout my medical files and
enclosed exhibits

(4) Relief requested: (State briefly exactly what you want the court to do for you.)

I pray to be transferred to a medical facility
trained professional can properly treat, monitor
my worsening condition, receive therapy and
properly medicated for excruciating nerve pain.

2. Claim II:

(1) List the right that you believe was violated:

Taking me off prescribed medication without con-
sulting a specialist for my kind of ailment, block-
ing transfer to a medical facility in retaliation
for filing complaints

(2) List the defendant(s) to this claim: (If you have sued more than one defendant, specify each person or entity that is a defendant for this particular claim.)

The GEO Group, Inc., Director Phoebe Moreland;
Trenor Loper; Buddy Wenzler, Medical
Services Manager - Dept. of Corrections, 2901 N.
Classen Blvd., Ste. #200, OKC, OK. 73106

(3) List the supporting facts:

(PLEASE REVIEW KN-
Closed exhibits)

(4) Relief requested: (State briefly exactly what you want the court to do for you.)

ORDER IN IN CAMERA REVIEW of MY ENTIRE MEDICAL
FILE; ORDER a MEDICAL TRANSFER for PROPER
TREATMENT, MONITORING, THERAPY and MEDICATIONAL
NEEDS. (SEE ATTACHED SHEET FOR RELIEF)

If there are more than two claims that you wish to assert, describe the additional claims using this same format on a separate sheet(s).

VI. Declarations

I declare under penalty of perjury that the foregoing is true and correct.

Emmanuel Mitchell
Plaintiff's signature

12/ /18
Date

I further declare under penalty of perjury that I placed this complaint in the prison's legal mail system, with the correct postage attached, on the ____ day of _____, 20__.

Emmanuel Mitchell
Plaintiff's signature

12/ /18
Date

Preamble/Claim I

GEO GROUP, Inc., headed by Director Phibiz Moorehead is the parent company of Lawton Correctional Facility, located at 8607 SE Flower Mound Rd., Lawton, Oklahoma (73501) a private prison contracted by the Oklahoma Department of Correction therefore jurisdiction is retained by this Honorable Court.

The GEO GROUP, Inc., is thereby bring sued individually and in their official capacity in conjunction by contract agreement with the hiring of JENIK KOPAR at the Lawton Correction Facility who violated my/Plaintiff's Constitutional Right to Equal Treatment, Not to be subjected to cruel and unusual punishment; Not to be medically neglected; Not to be retaliated against for complaining about Plaintiff's arbitrary treatment regarding Plaintiff's on-going and declining medical condition.

Claim II

Defendant Terrie Loper is employed at the Newton Correctional Facility whose credentials in the field of medicine is unclear at this stage. Defendant Terrie Loper is bringing suit in her individual and official capacity for violating Plaintiff Right to Equal Treatment; for violating Plaintiff's Right Not to be discriminated against for complaining about Plaintiff's health concerns and the indifference displayed by Defendant's arbitrary acts and actions of removing Plaintiff life sustaining medicine & treatments.

Plaintiff suffers and continues to suffer excruciating pain, uncontrollable muscle spasms, and nerve spasms because of Defendant Terrie Loper's indifference towards Plaintiff's worsening condition and needs.

Plaintiff Mitchell further contends that Defendant Terrie Loper retaliated against him by using and abusing her official position to stop various treatments and/or by blocking transfer to a qualified facility with qualified medical personnel.

Claim III

Plaintiff Mitchell alleges Defendant Buddy Honaker, Medical Services Manager is an Agent with the Oklahoma Department of Corrections and acts in conjunction with Defendants' Mooreland and Loper to deny Plaintiff Mitchell adequate, proper medical attention and treatment by running interference through his position to delay or stop Plaintiffs from receiving the proper medical treatment needed to assist in Plaintiff Mitchell's longevity.

It's Plaintiff's contention that Defendant Buddy Honaker is not medically qualified or trained in the field of medicine to know his threshold for pain or suffering brought on by this debilitating disease called Muscular dystrophy.

Defendant Honaker only motive for running interference with and for Defendants' Mooreland and Loper is to hasten Plaintiff demise through endless paper-chase that medically solves nothing while Plaintiff Mitchell life ebbs away.

Plaintiff Emanuel D. Mitchell seeks a conspiracy mode connecting Defendants Mooreland, Loper, Honaker to and with GEO Group, Inc., and the

Oklahoma Department of Corrections to violate Plaintiff Constitutional and Civil Rights. As such, Defendant Wenzler is being sued individually and in his official capacity.

DAMAGES:

Plaintiff Emanuel D. Mitchell seeks compensatory damages from Defendants Moorland, Loper, Wenzler in excess of \$25,000.00 dollars each for the wilful medical neglect, medical indifference, the subjection of cruel and unusual punishment while acting in their collective official capacity and under color of law.

Plaintiff Emanuel D. Mitchell incorporates punitive damages against GEO Group, Inc., Director and Defendant Phlois Moorland; Defendant Frank Loper and Defendant Buddy Wenzler in the amount of Fifty Million dollars for pain and suffering; for medical neglect, medical indifference, retaliatory tactics designed to delay any, all, treatment in a collective effort to hasten Plaintiff's demise by any means at the Defendants' disposal.

Relief:

- (a.) Order Plaintiff to be examined and monitored by a Specialist in the medical field of Muscular Dystrophy.
- (b.) Order alleged medical personnel to produce medical credentials to prove their qualifications at GEO Lewton Correctional Facility.
- (c.) Order GEO Personnel to turn over all Plaintiff's medical records, medicine's prescribed, as well as all treatments ordered for Plaintiff's continuing deteriorating chronic condition.
- (d.) Order the immediate transfer of Plaintiff to a medical facility where Plaintiff can receive proper treatment and round the clock medical monitoring.
- (e.) Order a trial by jury on all issues triable. Enter a Preliminary Injunction restricting all GEO and DOC employees from retaliating against Plaintiff because he filed this complaint.